

**Letter of Findings: 01-20182343
Indiana Individual Income Tax
For The Tax Year 2015**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective on its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individuals were responsible for additional Indiana income tax for the 2015 tax year because after a cross-reference examination with the federal information, the federal information reflected that Individuals had a higher adjusted gross income.

ISSUE

I. Indiana Individual Income Tax - Burden of Proof.

Authority: IC § 6-3-1-3.5; IC § 6-3-2-1; IC § 6-8.1-5-1; *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64 (Ind. 2009); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012).

Taxpayers protest the Department's assessment of individual income tax for 2015.

STATEMENT OF FACTS

Taxpayers (Husband and Wife) are Indiana residents who timely filed their joint 2015 Indiana Full-Year Resident Individual Income Tax Return (IT-40 Form) and received a tax refund in 2016.

In 2018, the Indiana Department of Revenue ("Department") cross-referenced information in its records with the federal information maintained by the Internal Revenue Service ("IRS"). The Department determined that, for the 2015 tax year, Taxpayers had an approximately additional \$7,000 in federal adjusted gross income than what was reported in their joint 2015 return, IT-40 Form. The Department concluded that Taxpayers owed additional Indiana and county income tax and, as a result, assessed Taxpayers additional income tax, penalty, and interest.

Taxpayers submitted supporting documents - including a copy of their 2015 amended IT-40X return - to protest the Department's assessment. In addition, Taxpayers requested that the Department make the determination without an administrative hearing. Taxpayers were asked to provide the IRS Record of Account by December 20, 2018. After the December 2018 due date, however, Taxpayers did not provide any additional supporting documentation or the IRS Record of Account to support their protest.

As a result, this Letter of Findings ensues and is based on the documents initially submitted and information within the Department's records. Additional facts will be provided as necessary.

I. Indiana Individual Income Tax - Burden of Proof.

DISCUSSION

Pursuant to the cross-reference of the federal information, the Department determined that Taxpayers had an additional \$7,000 in federal adjusted gross income than what was reported on their 2015 return, IT-40 Form. As a result, the Department assessed Taxpayers additional income tax, penalty, and interest. Taxpayers disagreed, claiming that the proposed assessment was overstated.

The issue thus is whether Taxpayers demonstrated that they correctly filed their Indiana return reporting their

adjusted gross income subject to Indiana and local income tax.

As a threshold issue, all tax assessments are *prima facie* evidence that the Department's claim for the unpaid tax is valid; the taxpayer bears the burden of proving that any assessment is incorrect. IC § 6-8.1-5-1(c); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007); *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012). "[E]ach assessment and each tax year stands alone." *Miller Brewing Co. v. Indiana Dep't of State Revenue*, 903 N.E.2d 64, 69 (Ind. 2009). Thus, the taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's assessment is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 486 n.9 (Ind. Tax Ct. 2012).

Indiana imposes a tax "on the adjusted gross income of every resident person, and on that part of the adjusted gross income derived from sources within Indiana of every nonresident person." IC § 6-3-2-1(a). To efficiently and effectively compute what is considered the resident/taxpayer's Indiana income tax, the Indiana statute refers to the Internal Revenue Code. IC § 6-3-1-3.5(a) provides the starting point to determine the taxpayer's taxable income and to calculate what would be his or her Indiana income tax after applying certain additions and subtractions to that starting point, with modifications thereafter.

In this instance, during the initial cross-reference examination, the Department found that Taxpayers had an additional \$7,000 in federal adjusted gross income than what was reported in their 2015 return, IT-40 Form. The Department thus adjusted Taxpayers' federal adjusted gross income to comport with the IRS record.

Taxpayers, to the contrary, asserted that the proposed assessment was overstated because Taxpayers received the IRS assessment, and they subsequently filed an amended return, Form 1040X, reporting additional 1099 income. Taxpayers claimed that, in a February 22, 2018, letter, the IRS accepted their amended return. As a result, Taxpayers argued that they should only be liable for a reduced amount - \$165 - based on the software they used to compute the federal adjusted gross income. To support their protest, in addition to the IRS letter, Taxpayers offered a copy of unsigned 2015 Form IT-40X and Form 1040X, maintaining that their 1040X return was accepted by the IRS.

Upon review, however, Taxpayers' reliance on the above-referenced documents is misplaced. The unsigned amended returns demonstrated that Taxpayers purportedly filed their 1040X Form, amending their federal reporting for 2015 and the IRS received such filing from Taxpayers by sending the February 22, 2018, letter, acknowledging the receipt. That IRS letter was insufficient to substantiate Taxpayers' federal adjusted gross income, as amended, because Taxpayers' unsigned returns did not match the Department's records, namely, the federal information maintained by the IRS. In particular, that IRS letter also stated, in part, "We've now charge you the additional tax." As such, in the letter dated November 19, 2018, the Department specifically requested that Taxpayers provide the verifiable copy of their Record of Account from the IRS. Taxpayers failed to do so by December 20, 2018. Thus, *in the absence of verifiable supporting document to substantiate that Taxpayers correctly reported their federal adjusted gross income*, the Department is not able to agree that Taxpayers met their burden of demonstrating that the assessment was wrong. The Department correctly assessed Taxpayers additional income tax pursuant to the Department's record - the federal information maintained by the IRS. Pursuant to IC § 6-8.1-5-1(c), the Department's assessment is presumed to be correct because Taxpayers failed to meet their burden of demonstrating that the assessment was wrong.

In short, given the totality of the circumstances, in the absence of the verifiable supporting document for 2015 to demonstrate otherwise, Taxpayers remain responsible for the additional income tax assessed.

FINDING

Taxpayers' protest is respectfully denied.

February 28, 2019

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